

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

RICHARD ROE; VICTOR VOE; and)
OUTSERVE-SDLN, INC.,)

Plaintiffs,)

v.)

PATRICK M. SHANAHAN, in his official)
capacity as Acting Secretary of Defense;)
HEATHER A. WILSON, in her official)
capacity as Secretary of the Air Force; and)
the UNITED STATES DEPARTMENT OF)
DEFENSE,)

No. 1:18-cv-1565-LMB-IDD

Defendants.)

SUPPLEMENTAL CERTIFICATION

The undersigned, as Superintendent, Medical Directorate of the Air Force Review Boards Agency, hereby certifies that the document annexed hereto is a true and accurate copy of page A-01070 which was omitted from the Administrative Record.

2/22/2019

X Christina Herrera

Christina Herrera, MSgt, USAF
Superintendent, Medical Directorate, AFRBA
Signed by: HERRERA.CHRISTINA.HERNANDEZ.1250977758

Name (Last, First, MI): [REDACTED]	Grade: [REDACTED]	SSAN: [REDACTED]	Type of Action: Separation/Discharge
AFSC: [REDACTED]	Duty Title: [REDACTED]		Age: [REDACTED]
Duty Location: [REDACTED]	Unit: [REDACTED]		USAF Service Status: Regular
EAD/ TAFMSD: [REDACTED]	ETS/DOS: [REDACTED]	Active Service: [REDACTED]	Satisfactory Service:
Date Received: [REDACTED]	Date Considered: [REDACTED]	Analyst: [REDACTED]	
Category I Condition: HIV [REDACTED]			
	IPEB: DWSP @ 10%	FPEB: DWSP @ 10%	SAFPC: OR DVA:

Panel Findings:

Contention 1: Member contends he is fit for Return to Duty.

Options	Vote	Panel Members
1. Fit, Return to Duty (RTD) 2. Unfit 3. Discharged With Severance Pay (DWSP) 10% 4. Miscellaneous (<i>Fill in the blank</i>)	2, 3 [REDACTED]	Board President: [REDACTED]
	①, ③ [REDACTED]	Panel Members: [REDACTED]
	②, ③ [REDACTED]	
	2, 3 [REDACTED]	
	②, ③ [REDACTED]	

Discussion:

The member was diagnosed HIV positive as a result of mandatory periodic screening on [REDACTED]. The most recent negative test was [REDACTED]. In [REDACTED] he reported an [REDACTED]. The member denies [REDACTED]. Infectious Diseases evaluation resulted in assessment as stage 3 HIV disease. This does not meet criteria for immunodeficiency status. Antiretroviral therapy has been initiated with Triumeq. The member has been able to perform duty including fitness testing.

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capacity as Acting Secretary of Defense;)
HEATHER A. WILSON, in her official)
capacity as Secretary of the Air Force; and)
the UNITED STATES DEPARTMENT OF)
DEFENSE,)

Defendants.)

No. 1:18-cv-1565-LMB-IDD

SUPPLEMENTAL CERTIFICATION

The undersigned, as Superintendent, Medical Directorate of the Air Force Review Boards Agency, hereby certifies that the documents annexed hereto are true and accurate copies of pages A01072-A01074 which were omitted from the Administrative Record.

2/22/2019

X Christina Herrera

Christina Herrera, MSgt, USAF
Superintendent, Medical Directorate, AFRBA
Signed by: HERRERA.CHRISTINA.HERNANDEZ.1250977758

Name (Last, First, MI): [REDACTED]	Grade: [REDACTED]	SSAN: [REDACTED]	Type of Action: Fitness for Duty - HIV
AFSC: [REDACTED]	Duty Title: [REDACTED]		Age: [REDACTED]
Duty Location: [REDACTED]	Unit: [REDACTED]		USAF Service Status: Regular
EAD/ TAFMSD: [REDACTED]	ETS/DOS: [REDACTED]	Active Service: [REDACTED]	Satisfactory Service:
Date Received: [REDACTED]	Date Considered: [REDACTED]	Analyst: [REDACTED]	
Category I Condition: [REDACTED]	HIV		
[REDACTED]	IPEB: DWSP @ 10%	FPEB: DWSP @ 10%	SAFPC:

Panel Findings:

Contention 1: Fit for Duty - RTD

Options	Vote	Panel Members
1. Fit, Return to Duty (RTD)	2 3 [REDACTED]	Board President: [REDACTED] Panel Members: [REDACTED]
2. Fit - NO	[REDACTED]	
3. Discharged With Severance Pay (DWSP) 10%	2,3 [REDACTED]	
4. Return for Information (RFI)	[REDACTED]	
5. Return without Action (RWOA)	2,3 [REDACTED]	
6. Miscellaneous (Fill in the blank)	2,3 [REDACTED]	

MEB/IPEB/FPEB Summary:

Member is a [REDACTED] year old [REDACTED] with [REDACTED] years of AD service. Member was found unfit by both IPEB and FPEB due to asymptomatic HIV. Member was diagnosed with HIV in [REDACTED]. Member has been prescribed Tivicay (Dolutegravir) and Descoby (double therapy Emtricitabine, Tenofovir Alafenamide). Member is asymptomatic; however, his clinical history has been [REDACTED]. In [REDACTED] member was CDC stage 2 with a CD4 count of 677/23% and a viral load of zero.

The CDC stages are: Stage I-acute HIV infection (first few weeks of disease). Stage 2 is clinical latency. Clinical latency can be prolonged with medications. Stage 3 is Acquired Immunodeficiency Syndrome (AIDS). AIDS typically occurs when the CD4 count is less than 200 cells/mm. Overt AIDS is accompanied by a variety of severe illnesses. Life expectancy for untreated AIDS is around three years.

Member's Contention:

Member contends that he should be returned to duty.

Discussion:

Member meets criteria for retention according to the 11 Oct 2017 HQ USAF/AIP memo in the case file. Memo states that "Asymptomatic HIV alone is not unfitting for continued service."

Final Disposition:

Name (Last, First, MI): [REDACTED]	Grade: [REDACTED]	SSAN: [REDACTED]	Type of Action: Separations/Retirement
AFSC: [REDACTED]	Duty Title: [REDACTED]		Age: [REDACTED]
Duty Location: [REDACTED]	Unit: [REDACTED]		USAF Service Status: Regular
EAD/ TAFMSD: /	ETS/DOS: /	Active Service: [REDACTED]	Satisfactory Service:
Date Received: [REDACTED]	Date Considered: [REDACTED]	Analyst: [REDACTED]	

Category I Condition: HIV

IPEB: DWSP @ 10%

FPEB: DWSP @ 10%

**SAFPC: OR
DVA:**

Panel Findings:

Contention 1:

Options	Vote	Panel Members
1. Fit, Return to Duty (RTD) 2. Unfit, Discharged With Severance Pay (DWSP) 3. Miscellaneous (Fill in the blank)	1 [REDACTED]	Board President: [REDACTED]
	/ [REDACTED]	Panel Members: [REDACTED]
	1 [REDACTED]	
	1 [REDACTED]	
	1 [REDACTED]	

MEB/IPEB/FPEB Summary:

Member is a [REDACTED] year old [REDACTED] with [REDACTED] years of AD service. Member was found unfit by both IPEB and FPEB due to asymptomatic HIV. Member was diagnosed with HIV in [REDACTED]. Member has been prescribed Tivicay (Dolutegravir) and Descoby (double therapy Emtricitabine, Tenofovir Alafenamide). Member is asymptomatic; however, his clinical history [REDACTED]. In [REDACTED] member was CDC stage 2 with a CD4 count of 677/23% and a viral load of zero.

The CDC stages are: Stage I—acute HIV infection (first few weeks of disease). Stage 2 is clinical latency. Clinical latency can be prolonged with medications. Stage 3 is Acquired Immunodeficiency Syndrome (AIDS). AIDS typically occurs when the CD4 count is less than 200 cells/mm. Overt AIDS is accompanied by a variety of severe illnesses. Life expectancy for untreated AIDS is around three years.

AFPB VOTE SHEET

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Docket Number: [REDACTED]

Member's Contention:

Member contends that he should be returned to duty.

Discussion:

Member meets criteria for retention according to the 11 Oct 2017 HQ USAF/A1P memo in the case file. Memo states that "Asymptomatic HIV alone is not unfitting for continued service."